

AMENDED IN ASSEMBLY APRIL 23, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1016

Introduced by Assembly Member Plescia

February 22, 2007

An act to add Article 12 (commencing with Section 19680) to Chapter 4 of Division 8 of the Business and Professions Code, and to add Section 3064.5 3080.23 to the Civil Code, relating to racehorses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1016, as amended, Plescia. Racehorses: liens for services.

(1) Existing law creates a general lien on livestock in possession of a livestock servicer to secure the performance of the obligations of the owner to that person. Under existing law, if the owner fails to satisfy those obligations, the livestock servicer may sell the livestock after obtaining the consent of the owner, a court order, or judgment, and recover the costs of the obligations of the owner and lien enforcement, as specified. Existing law also creates a general lien, dependent upon possession, for veterinary proprietors and veterinary surgeons for their compensation in caring for, boarding, feeding, and medical treatment of animals.

This bill would permit a general lien on racehorses in the possession of a breeder, trainer, owner, ~~branding breeding~~ *breeding* farm, fair training facility, or racetrack for their compensation in caring for, boarding, feeding, and medical treatment of racehorses. The bill would permit that breeder, trainer, owner, ~~branding breeding~~ *breeding* farm, fair training facility, or racetrack, if the obligations of the owner of the racehorse are not satisfied, to sell a racehorse that has a value of \$4,000 or less without obtaining the consent of the owner, court order, or judgment,

if the amount of the lien is at least 50% of the value of the racehorse and notice is sent to the owner prior to the sale of the racehorse, as specified. The bill would require that the notice of sale be signed under penalty of perjury. By creating a new crime, the bill would impose a state-mandated local program.

The bill would also express the intent of the Legislature that a racehorse sold pursuant to these provisions may not be sold to a person who intends to possess, import into or export from the state, or to sell, buy, give away, hold, or accept a racehorse with the intent of killing, or having another kill, that racehorse if that person knows or should have known that any part of the racehorse will be used for human consumption, as specified.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that a racehorse
2 sold pursuant to this act may not be sold to a person who intends
3 to possess, import into or export from the state, or to sell, buy, give
4 away, hold, or accept a racehorse with the intent of killing, or
5 having another kill, that racehorse if that person knows or should
6 have known that any part of the racehorse will be used for human
7 consumption, as described in Section 598c of the Penal Code.

8 SEC. 2. Article 12 (commencing with Section 19680) is added
9 to Chapter 4 of Division 8 of the Business and Professions Code,
10 to read:

11
12 Article 12. Racehorse Liens
13

14 19680. For the purposes of this article, the following definitions
15 shall apply:

16 (a) "Owner" means any owner of a racehorse who is listed on
17 an agreement between an owner and a racehorse service provider.

18 (b) "Racehorse" means a horse that is subject to this chapter.

1 (c) "Racehorse service provider" means a breeder, trainer,
2 owner, ~~branding~~ *breeding* farm, fair training facility, or racetrack
3 that provides racehorse services.

4 (d) "Racehorse services" means any and all grazing, feeding,
5 boarding, general care, medical treatment, or animal health
6 services, obtained or provided by the racehorse service provider,
7 or an employee of that provider, transportation or other services
8 rendered by a person to a racehorse for the owner of the racehorse,
9 or for a person acting by or under the owner's authority.

10 19681. A racehorse service provider shall have a general lien
11 upon a racehorse in possession of the service provider to secure
12 the performance of all obligations of the owner of the racehorse
13 to the racehorse service provider.

14 19682. (a) In addition to any other rights and remedies
15 provided by law, a lienholder may:

16 (1) Retain possession of the racehorse and charge the owner for
17 the reasonable value of providing racehorse services to the
18 racehorse until the owner's obligations secured by the lien have
19 been satisfied.

20 (2) Sell the racehorse if the lienholder determines in good faith
21 that the value of the racehorse is four thousand dollars (\$4,000)
22 or less, the amount of the lien asserted is at least 50 percent of the
23 value of the racehorse, and, if the owner does not object to the sale
24 in writing as described in this section, the lienholder satisfies the
25 requirements in subdivision (b).

26 (3) A lienholder may commence a legal action on its claim
27 against the owner of the racehorse or other person indebted to the
28 lienholder for services to the racehorse and reduce the claim to
29 judgment. If that judgment is entered, a lien or levy or other form
30 of enforcement that may be made on the racehorse by virtue of an
31 execution based on the judgment shall relate back to the attachment
32 of and have the same priority as the racehorse service lien. The
33 lienholder may purchase at a judicial sale held pursuant to the
34 execution on the judgment and hold the racehorse free of a lien on
35 or security interest in the racehorse.

36 (b) If the lienholder determines in good faith that the value of
37 the racehorse is four thousand dollars (\$4,000) or less and the
38 amount of the lien asserted is at least 50 percent of the value of
39 the racehorse, the lienholder shall send, by certified mail with
40 return receipt requested or by personal delivery to and accompanied

1 by a signature of the owner or other person indebted to the
2 lienholder, a Notice of Sale and a return envelope, postage prepaid
3 for certified mail with return receipt requested, preaddressed to
4 the lienholder, to the owner of the racehorse and other person
5 indebted to the lienholder for services to the racehorse. The Notice
6 of Sale shall be signed under penalty of perjury under the laws of
7 this state and shall include all of the following information and
8 statements:

9 (1) A description of the racehorse and the estimated value of
10 that racehorse.

11 (2) The specific date, exact time, and place of sale that shall be
12 set not less than 31 days or more than 41 days, from the date of
13 mailing.

14 (3) The names and addresses of the owners of the racehorse and
15 other persons indebted to the lienholder for services to the
16 racehorse.

17 (4) All of the following statements:

18 (A) The amount of the lien and the facts concerning the claim
19 that gives rise to the lien.

20 (B) The owner or other person has a right to a hearing in court.

21 (C) If a court hearing is desired, the owner or other person shall
22 object to the sale in writing, sent to the lienholder by certified mail
23 with return receipt requested, within 14 days of the date the owner
24 or other person received the Notice of Sale.

25 (D) If the written objection to the sale is sent to the lienholder
26 within 14 days of the date the owner or other person received the
27 Notice of Sale, the lienholder may not sell the racehorse except
28 pursuant to court order, judgment, or written release by the owner.

29 (E) If a court action is filed, the owner or other person shall be
30 notified of the lawsuit and may appear to contest the claim.

31 (F) If an order or judgment is entered in favor of the lienholder,
32 the owner or other person may be liable for court costs and
33 attorney's fees.

34 (c) If the owner or other person objects in writing within 14
35 days of the date the owner or other person received the Notice of
36 Sale, the lienholder may not sell the racehorse except as described
37 in paragraph (3) of subdivision (a).

38 *(d) The lienholder may proceed to sell the horse, to satisfy the*
39 *lien and costs of sale at public auction, after having given notice*
40 *as provided in this section and by advertising in a newspaper that*

1 *is published in the county in which the horse is located; or if there*
2 *is no newspaper printed in that county, then posting notice of the*
3 *sale in three of the most public places in town and at the place*
4 *where the horse is to be sold, for 10 days prior to the date of sale.*
5 *However, within 20 days after the sale, the legal owner may redeem*
6 *the horse sold to satisfy the lien upon payment of the amount*
7 *thereof, all costs and expenses of the sale, together with interest*
8 *on the sum at the rate of 12 percent per annum from the due date*
9 *thereof or the date when those amounts were advanced until the*
10 *repayment. The proceeds of the sale shall be applied to the*
11 *discharge of the lien and the cost of keeping and selling the*
12 *property; the remainder, if any, shall be paid over to the legal*
13 *owner thereof.*

14 SEC. 3. Section ~~3064.5~~ 3080.23 is added to the Civil Code, to
15 read:

16 ~~3064.5.~~

17 3080.23. A lien on racehorses in the possession of a breeder,
18 trainer, owner, ~~branding~~ breeding farm, fair training facility, or
19 racetrack for their compensation in caring for, boarding, feeding,
20 medical treatment, and animal health services of racehorses shall
21 be subject to Article 12 (commencing with Section 19680) of
22 Chapter 4 of Division 8 of the Business and Professions Code.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.